

Decision 02-03-009 March 6, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Rulemaking on the Commission's Own Motion  
into Universal Service and to Comply with the  
Mandates of Assembly Bill 3643.

Rulemaking 95-01-020  
(Filed January 24, 1995)

Investigation on the Commission's Own Motion  
into Universal Service and to Comply with the  
Mandates of Assembly Bill 3643.

Investigation 95-01-021  
(Filed January 24, 1995)

**INTERIM OPINION REGARDING THE PETITION TO MODIFY  
DECISION 98-09-039 FILED BY ROSEVILLE TELEPHONE COMPANY**

**I. Summary**

This decision orders Roseville Telephone Company (Roseville) to file a proposal in Investigation (I.) 01-04-026 to reduce its rates and price ceilings by an amount equal to its draws from the California High Cost Fund-B (CHCF-B).

**II. Background**

For many years, telephone companies charged higher rates for some services in order to subsidize the provision of affordable local exchange service for residential customers located in high-cost areas of the State. This system of internal cross subsidies was replaced by the CHCF-B in Decision (D.) 96-10-066. The CHCF-B currently provides Roseville and other large local exchange carriers (LECs) with more than \$530 million per year to subsidize residential local

exchange service in high-cost areas. Funding for the CHCF-B comes from a surcharge paid by the end users of intrastate telecommunications services.

To ensure that the large LECs did not reap a windfall from the CHCF-B, D.96-10-066 directed the large LECs to reduce their rates as follows:

Concurrent with the effective date of the [CHCF-B], the... LECs...shall reduce all of their rates, except for residential basic service and existing contracts, by an equal percentage. This overall reduction shall equal the anticipated monthly draw... from the [CHCF-B]...We shall [also] afford the . . . LECs the opportunity to decide what rates or price caps should be reduced...to permanently offset the explicit subsidy support. Until that is accomplished, a monthly surcredit shall be used to offset any anticipated monthly draw. The LECs shall be permitted to file applications describing what rates or price caps they seek to permanently [reduce] as a result of receiving monies from the CHCF-B. (D.96-10-066, *mimeo.*, p. 209.)

Roseville currently draws about \$400,000 per year from the CHCF-B, and has a surcredit in place to offset its draws. In D.98-09-039, the Commission gave Roseville until September 3, 2000, to file an application to propose targeted rate reductions to offset its draws from the CHCF-B. On July 26, 2000, the Commission's Executive Director granted Roseville a one-year extension to file the application authorized by D.98-09-039. On August 24, 2001, the Executive Director granted Roseville until the date when I.01-04-026 is closed to file the application authorized by D.98-09-039.

In I.01-04-026, the Commission is investigating whether to increase Roseville's rates to offset the loss of \$11.5 million in annual revenues for Extended Area Service (EAS) that Roseville previously received from Pacific Bell. To this end, the Commission ordered Roseville to submit a rate-design proposal

in I.01-04-026 to recover \$11.5 million.<sup>1</sup> Roseville submitted its rate-design proposal on September 17, 2001. On November 30, 2001, the assigned Commissioner in I.01-04-026 issued a scoping memo. Page 2 of the memo provided instructions regarding the content of the rate-design proposal that Roseville is required to submit in that proceeding.

On December 3, 2001, Roseville filed a petition to modify D.98-09-039 (Petition). In its Petition, Roseville asks the Commission modify D.98-09-039 by adding the following sentence to the end of O.P. 17: "In addition, parties are authorized to present proposals to adjust Roseville's rates and price ceilings by an amount equal to its CHCF-B draws in I.01-04-026." Roseville states that it would be far more efficient for the Commission and the parties to consider revisions to Roseville's rates in one proceeding rather than two.

Roseville represents in its Petition that the rate-design proposal it submitted in I.01-04-026 on September 17, 2001, already reflects its draws from the CHCF-B. Roseville also represents that no party in I.01-04-026 has objected to the inclusion of Roseville's CHCF-B draws in its rate-design proposal. In addition, Roseville notes that the assigned Commissioner's scoping memo issued in I.01-04-026 on November 30, 2001, determined that Roseville's draws from the CHCF-B could be included in its rate-design proposal, but only if Roseville filed a petition to modify D.98-09-039 and the Commission approved the petition.

The Office of Ratepayer Advocates (ORA) does not object to Roseville's Petition, but states that Roseville's draws from the CHCF-B do not appear to be included in the rate-design proposal that Roseville filed in I.01-04-026. Therefore,

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<sup>1</sup> Order Instituting Investigation 01-04-026, *mimeo.*, p. 3.

if the Petition is granted, ORA states that it might be necessary for Roseville to update its rate-design proposal.

### **III. Discussion**

We agree with Roseville that it would be more efficient to address in one proceeding, rather than two, revisions to Roseville's rates to reflect its draws from the CHCF-B and the loss of its EAS revenues. One proceeding has the added advantage of producing only one change in rates, while two proceedings might result in two separate rate changes. Two rate changes should be avoided, if possible, because it would probably cost more for Roseville to implement two rate changes (since each change would require revisions to Roseville's tariffs, billing system, etc.), and because Roseville's customers might be confused or frustrated by one rate change after another.

For the preceding reasons, we will modify D.98-09-039 to require Roseville to submit in I.01-04-026 its proposal to reduce its rates and price ceilings (collectively, "rates") to offset its draws from the CHCF-B. As required by D.98-09-039, any such proposal must reduce Roseville's rates by an amount equal to its draws from the CHCF-B during the most recent 12-month period for which data is available at the time the proposal is submitted.<sup>2</sup> Since the record is unclear as to whether Roseville previously submitted a CHCF-B rate-reduction proposal in I.01-04-026,<sup>3</sup> Roseville will have 30 days from the effective date of this decision to submit a proposal, if it has not done so already, that conforms to the requirements set forth on page 2 of the scoping memo issued in I.01-04-026 by the assigned Commissioner on November 30, 2001.

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<sup>2</sup> D.98-09-039, Ordering Paragraph (OP) 17.

<sup>3</sup> Roseville asserts that it has submitted a CHCF-B rate-reduction proposal in I.01-04-026, while ORA believes that Roseville may not have done so.

Except for the modification to D.98-09-039 authorized by this decision, D.98-09-039 remains in full force and effect. In particular, today's decision does not relieve Roseville of the requirement established by D.98-09-039 to maintain rate reductions to offset its draws from the CHCF-B for as long as the draws continue.<sup>4</sup>

#### **IV. Procedural Matters**

Roseville filed its petition to modify D.98-09-038 on December 3, 2001. Notice of the Petition appeared in the Commission's Daily Calendar on December 5, 2001. ORA filed a timely response on December 26, 2001.

Section 311(g)(1) requires the Commission's draft decision regarding Roseville's Petition to be (i) served on all parties, and (ii) subject to at least 30 days of public review and comment prior to a vote of the Commission. The Draft Decision of Administrative Law Judge (ALJ) Kenney was mailed on February 4, 2002. ORA and Roseville filed comments regarding the Draft Decision on February 25, 2002. Both parties filed reply comments on March 4, 2002.

ORA supports the ALJ's Draft Decision and recommends that the Commission adopt the Draft Decision in its entirety. Roseville recommends two revisions to the Draft Decision. First, Roseville states that the Draft Decision should be revised to eliminate the requirement for Roseville to file its CHCF-B rate rebalancing proposal within 30 days from the effective date of today's order. Instead, Roseville states that it should be allowed to submit its rate rebalancing proposal on June 28, 2002, as part of the testimony that Roseville is required to submit in I.01-04-026. Second, Roseville states that its should not be required to

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<sup>4</sup> D.98-09-039, OP 28.

submit a rebalancing proposal that is based on its most recent 12-months of draws from the CHCF-B as required by OP 17 of D.98-09-039. Roseville asserts that its historical draws cannot be relied upon to predict its future draws, and, therefore, its historical draws should not be used as a basis to set future rates. ORA opposes both of Roseville's recommendations.

We decline to adopt Roseville's two recommended revisions to the Draft Decision. First, we believe that Roseville should submit its CHCF-B rate rebalancing proposal within 30 days so that the parties in I.01-04-026 may respond to the proposal in their testimony that is due in that proceeding on June 28, 2002. Second, we hesitate to modify OP 17 of D.98-09-039 based on a recommendation that appeared for the first time in Roseville's comments on the Draft Decision. Pursuant to Pub. Util. Code § 1708, we may modify a prior decision only after providing notice and an opportunity to be heard. It is not clear that the requirements of § 1708 have been met. We note, however, that while OP 17 of D.98-09-039 requires Roseville to submit a CHCF-B rate rebalancing proposal that is based on Roseville's historical draws from the CHCF-B, OP 17 does not prohibit Roseville from submitting additional rate rebalancing proposals. Therefore, Roseville may submit one or more additional proposals in I.01-04-026. Any additional proposals must be submitted within 30 days from the effective date of this decision, and must conform to the requirements set forth on page 2 of the assigned Commissioner's ruling issued in I.01-04-026 on November 30, 2002.

## **Findings of Fact**

1. Roseville currently draws about \$400,000 per year from the CHCF-B. Roseville has implemented a surcredit to offset its draws from the CHCF-B.

2. D.98-09-039 gave Roseville until September 3, 2000, to file an application to propose targeted rate reductions to offset its draws from the CHCF-B. The decision also required that the size of any proposed rate reduction be based on Roseville's actual draws from the CHCF-B for the most recent 12-month period for which data is available at the time the application is filed.

3. On July 26, 2000, the Executive Director granted Roseville a one-year extension to file the application authorized by D.98-09-039. On August 24, 2001, the Executive Director granted Roseville until the date that I.01-04-026 is closed to file the application authorized by D.98-09-039.

4. In I.01-04-026, the Commission is investigating whether, and to what extent, it is necessary to increase Roseville's rates to replace the loss of \$11.5 million of EAS revenues that Roseville previously received from Pacific Bell. To this end, the Commission ordered Roseville to submit a rate design proposal in I.01-04-026 to recover \$11.5 million. Roseville submitted its rate design proposal on September 17, 2001.

5. On November 30, 2001, the assigned Commissioner in I.01-04-026 issued a scoping memo. Page 2 of the memo provided instructions regarding the content of the rate-design proposal that Roseville is required to submit in that proceeding.

6. In its Petition, Roseville asks the Commission to modify D.98-09-039 by adding the following sentence to the end of Ordering Paragraph 17: "In addition, parties are authorized to present proposals to adjust Roseville's rates and price ceilings by an amount equal to its CHCF-B draws in I. 01-04-026."

7. It is not clear from the record of this proceeding whether the rate design proposal that Roseville submitted in I.01-04-026 reflects Roseville's draws from the CHCF-B.

### **Conclusions of Law**

1. In the interest of administrative and judicial economy, D.98-09-039 should be modified to require Roseville to submit in I.01-04-026 its proposal for reducing its rates to offset its draws from the CHCF-B. Roseville should have 30 days from the effective date of this decision to submit such a proposal if it has not done so already. Any such proposal should (i) reduce Roseville's rates by an amount equal to Roseville's draws from the CHCF-B during the most recent 12-month period for which data is available at the time the proposal is submitted, and (ii) conform to the requirements set forth on page 2 of the scoping memo issued in I.01-04-026 by the assigned Commissioner on November 30, 2001.

2. OP 17 of D.98-09-039 does not preclude Roseville from submitting additional rate rebalancing proposals to offset its draws from the CHCF-B. Any additional proposals should (i) be submitted in I.01-04-026 at the same time as the proposal identified in the previous Conclusion of Law, and (ii) conform to the requirements set forth on page 2 of the scoping memo issued in I.01-04-026 by the assigned Commissioner on November 30, 2001.

3. Roseville is required by D.98-09-039 to maintain rate reductions to offset its draws from the CHCF-B for the same period of time that it receives subsidies from the CHCF-B. Today's decision does not relieve Roseville of this obligation.

4. The following order should be effective immediately so that its provisions may be implemented expeditiously.

## INTERIM ORDER

### **IT IS ORDERED** that:

1. Decision (D.) 98-09-039 is modified to require Roseville Telephone Company (Roseville) to submit in Investigation (I.) 01-04-026 its proposal for reducing its rates and price ceilings to offset its draws from the California High Cost Fund-B (CHCF-B). Any such proposal must (i) reduce Roseville's rates and price ceilings by an amount equal to Roseville's actual draws from the CHCF-B during the most recent 12-month period for which data is available at the time of the proposal is submitted, and (ii) conform to the requirements set forth on page 2 of the scoping memo issued in I.01-04-026 by the assigned Commissioner on November 30, 2001. Roseville may also concurrently submit one or more additional proposals for reducing its rates to offset its draws from the CHCF-B. Any additional proposals must conform to the requirements set forth on page 2 of the scoping memo issued in I.01-04-026 by the assigned Commissioner on November 30, 2001.

2. Roseville has 30 days from the effective date of this Order to submit the proposal described in the previous Ordering Paragraph if it has not done so already.

3. Roseville's petition to modify D.98-09-039 is granted subject to the directives set forth in the previous two Ordering Paragraphs.

4. Except for the modification to D.98-09-039 authorized by Ordering Paragraphs 1 and 2 above, D.98-09-039 remains in full force and effect.

5. This order is effective today.

Dated March 6, 2002, at San Francisco, California.

LORETTA M. LYNCH

President  
HENRY M. DUQUE  
RICHARD A. BILAS  
CARL W. WOOD  
GEOFFREY F. BROWN  
Commissioners